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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/575,560	05/21/2000	Paul Ferguson	A0312/7409/SJH	1265

7590 01/14/2003
Steven J. Henry
Wolf Greenfield & Sacks PC
600 Atlantic Avenue
Boston, MA 02210

EXAMINER

PHAN, TRONG Q

ART UNIT	PAPER NUMBER
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2818

DATE MAILED: 01/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory ActionApplication No.
09/575,560Applicant(s)
FERGUSON ET AL.Examiner
TRONG PHANArt Unit
2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Dec 26, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see attached explanation.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____
- Claim(s) objected to: _____
- Claim(s) rejected: 1-9, 16-24, 27-29, and 31-40
- Claim(s) withdrawn from consideration: 10-15, 25, 26, and 30
8. ☒ The proposed drawing correction filed on Dec 26, 2002 is a) ☐ approved or b) ☒ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Phan Trong Phan
TRONG PHAN
PRIMARY EXAMINER

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ADVISORY ACTION

Applicant's request for consideration filed on 12/26/02 has been considered but does NOT place the application in condition for allowance because:

A) During the telephone interview of 8/13/2001, Mr. Steinberg and examiner Phan both agreed to include claim 11 into the non-elected Group II, therefore, claim 11 must be withdrawn from consideration even if it is still pending.

Claim 41 has been added in the amendment of 5/3/2002, however, since original claim 28 is missing, therefore, claim 41 has been renumbered as claim 40.

B) During the telephone interview of 12/2/2002, Applicant requested the final office action to be withdrawn for the reason the new grounds of rejection are not necessitated by the amendment. The examiner only indicated that the finality of claim 1-9, 16-24, 27-29 and 31-40 will be withdrawn only if Applicant's response to the final office action overcomes all the objections and rejections and place the application in condition for allowance. However, in view of the fact that the proposed amendment of 5/13/2002 did clearly alter the scope in the independent claims 1, 4, 7 and 29 and further added new claims 32-41, therefore, the new grounds of rejection are necessitated by the amendment and the FINAL office action is totally proper and is sustained.

C) The objection to the drawings is still considered to be proper since Applicant's proposed changes to Figures 5, 10, 31 and 35 have not been entered for the

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reason they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

D) The rejection of claim 1-9, 16-24, 27-29 and 31-40 under 35 USC 112, first paragraph, is still considered to be proper since Applicant's proposed changes to the specification have not been entered for the reason they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.

E) Regarding the rejections under 35 USC 103(a):

1) The rejection of claims 1-9 and 34-37 under 35 USC 103(a) as being unpatentable over Fling et al., 4,591,832, in view of Mehta et al., 4,205,203, Lee et al., 6,130,633, and Dingwall et al., 5,332,997, is still considered to be proper because: claim 35 has been renumbered as claim 34; Fling et al., 4,591,832, and Mehta et al., 4,205,203, are both clearly directed to PCM binary samples in the form of multi-bit digital signal, therefore, the combination is totally proper.

2) The rejection of claim 27 under 35 USC 103(a) as being unpatentable over Yamashita, 5,890,432, in view of Dingwall et al., 5,332,997, is still considered to be proper because Yamashita, 5,890,432, and Dingwall et al., 5,332,997, are both clearly directed to digital to analog converter D/A, therefore, the combination is totally proper.

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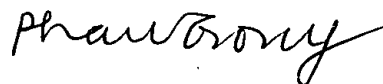
al., 5,332,997, are both clearly directed to digital to analog converter D/A, therefore, the combination is totally proper.

F. The rejection of claims 17-24, 28-33 and 38-40 under 35 USC 102(e) as being anticipated over Watson et al., 6,154,162, is still considered to be proper because: claim 41 has been renumbered as claim 40; Watson et al., 6,154,162, does clearly teach in Fig. 4 that when switches 78 are in the middle positions, capacitors 70, 72 and 74 will be connected to output voltage Vout and charge sharing will occur from final summing node 58 to bypass capacitor 60 (see lines 58-59, column 6).

G. The provisional double patenting rejection is still considered to be proper since no Applicant's response has been received.

For all above reasons, the final office action of 6/20/2002 is still totally proper and is sustained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRONG PHAN whose telephone number is (703) 308-4870 and email address is trong.phan@uspto.gov



**TRONG PHAN
PRIMARY EXAMINER**

January 10, 2003